IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.5308/07
M/s. New Sethi Transport Company & Anr.
Vs.
Additional Civil Judge (Sr. Div.) & Ors.

26.09.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri R.P. Garg for petitioner.
Shri Ashok Kumar Choudhary for respondent.

The petitioner has challenged the order dated 1.6.2007 whereby the Court of Additional Civil Judge (Sr. Division) No.3, Jaipur City, Jaipur has in the suit filed by the plaintiff respondent closed his evidence.

Learned counsel for the petitioner argued that on 1.6.2007 the statement of defendant petitioner no.2 Ved Bhushan Sethi was recorded and his

cross examination was also completed but the trial court closed the evidence in respect of other evidence only because they were not present on that date. If one more opportunity was given to the petitioner, he would have been produced. The closer of the evidence have grossly prejudice his case and the matter is likely to be decided against him without providing opportunity to adduce evidence. Shri R.P. Garg, learend counsel for the petitioner argued that although in the list of witnesses, defendants have cited 17 witnesses, but in order to save the time, he was prepared to forgo 10 witnesses and was willing to examine 7 only.

On the contrary, learned counsel for the respondent opposed the writ

petition and argued that number of dates have been granted to the defendant no.2 and suit was pending for recording evidence of the defendants and in view of the matter the trial court was justified in closing the evidence.

Having heard the learned counsel for the petitioner and perused the material on record, the impugned order does reflect that the evidence of the defendant was closed on the self same date on which the evidence of DW-1 was completed / his cross examination was made and statement was completed.

In the interest of justice, it would be therefore appropriate to provide reasonable opportunity to the defendant to adduce evidence. It is therefore directed that upon the defendant making

payment of the cost of Rs.1,000/- to the plaintiffs, the trial court shall record the statements of the witnesses and permit their cross examination within 45 days from the next date which is said to be 29.9.2007. It would be obligatory to the petitioner to produce all his witnesses for statements and cross examination before the trial court and no adjournment beyond the aforesaid time shall be granted for the purpose.

With these observations, the writ petition is allowed.

(Mohammad Rafiq),J.

Rs/-